

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Petition for Rulemaking)
to Implement Domestic Rate)
Integration Policies for the)
Commonwealth of the Northern)
Mariana Islands)

File No. _____

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PETITION FOR RULEMAKING TO IMPLEMENT DOMESTIC RATE
INTEGRATION FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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SUMMARY OF PETITION

As demonstrated below, the Commission should institute a rulemaking proceeding to begin the process of incorporating the Commonwealth of the Northern Mariana Islands ("Commonwealth") in the United States domestic rate integration plan.

As was the case with the non-contiguous points of Alaska, Hawaii, the Commonwealth of Puerto Rico and the U.S Virgin Islands, the time has now come to extend the benefits of rate integration to the Commonwealth. As a U.S. commonwealth, no rational basis exists for continuing to apply inflated rates based on international ratemaking principles to U.S. citizens in the Commonwealth.

Rate integration for the Commonwealth is justified on many fronts. First, as a U.S. domestic point subject to the Communications Act of 1934, as amended ("Act"), rate integration is legally feasible for the Commonwealth. Second, rate integration for the Commonwealth is economically justified since a combination of satellite and microwave facilities link the Commonwealth with Guam as well as the domestic U.S.

Third, there can be little argument that rate integration for the Commonwealth is in the public interest. Implementing rate integration for the Commonwealth will promote increased competition along with the development of new and innovative technologies and services, resulting in lower communications prices for Commonwealth ratepayers. In addition to affording U.S. citizens in the

Commonwealth access to affordable communications offerings, rate integration will enhance the economic development of the Commonwealth in conformity with the legal obligations of the U.S. Implementing rate integration for the Commonwealth will also constitute a significant step towards rectifying the historically inconsistent telecommunications policy treatment of the Commonwealth.

Finally, not to be overlooked, the Commission's existing policy of allowing non-integrated rates to be applied to the Commonwealth appears to be unlawfully discriminatory under the Act.

As shown below, the Commission should promptly institute a rulemaking proceeding to incorporate the Commonwealth into the domestic rate integration plan.

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**PETITION FOR RULEMAKING TO IMPLEMENT DOMESTIC RATE
INTEGRATION FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

The Commonwealth of the Northern Mariana Islands ("Commonwealth"), by its attorney, respectfully requests that the Commission institute a rulemaking proceeding pursuant to Section 1.401 et seq. of the Commission's Rules, 47 C.F.R. §1.401 et seq., to extend the full benefits of interstate rate integration to the Commonwealth.

I. INTRODUCTION AND BACKGROUND

The Commonwealth consists of 14 islands strategically located in the North Pacific Ocean approximately 5,635 miles west-southwest of Hawaii and 46 miles north of the Territory of Guam ("Guam"). In fact, Guam is the southernmost island in the Mariana Islands archipelago which encompasses the Commonwealth. The three principal islands of Saipan, Tinian and Rota comprise more than two thirds of the land area of the Commonwealth. The total land area of the Commonwealth is slightly larger than 2.5 times the size of

the District of Columbia.¹ The populated islands of the Commonwealth (i.e., Saipan, Tinian and Rota) have a total population of 43,345 according to the 1990 United States census.²

The Northern Mariana Islands became a U.S. commonwealth on November 3, 1986. Prior to that, since July 18, 1947, the Commonwealth was part of the United Nations Trust Territory of the Pacific Islands ("Trust Territory"). The Trust Territory was administered by the U.S. under a Trusteeship Agreement between the U.S. and the Security Council of the United Nations.³ On February 15, 1975, following extensive status negotiations, the Commonwealth and the U.S. entered into a "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America."⁴ Just over a decade later, on November 3, 1986, the Covenant was declared to be in full force and effect by Presidential Proclamation, and the Trusteeship Agreement as it

¹ Central Intelligence Agency, World Factbook (1993) at 290. By contrast, the Territory of Guam's total land area is slightly more than three times the size of the District of Columbia. Id. at 158.

² The Commonwealth is rapidly gaining attention as an ideal vacation destination. The tourist industry is a growing source of income, employing over half of the Commonwealth's work force.

³ In addition to the Northern Mariana Islands, the Trust Territory included the Federated States of Micronesia, the Marshall Islands and Palau. Presidential Proclamation No. 5564, 51 Fed. Reg. 40399 (Nov. 7, 1995).

⁴ See 48 U.S.C. §1681 note (1987), approved by Congress in Public Law 94-241 (March 24, 1976), 90 Stat. 263 ("Covenant"). The Covenant was entered into following a plebiscite held under the United Nation's supervision in which the residents of the Commonwealth voted to enter into political union with the United States as a commonwealth.

applied to the Northern Mariana Islands was terminated.⁵

The Commonwealth is a self-governing commonwealth in political union with and under the sovereignty of the United States.⁶ The relationship between the Commonwealth and the United States is governed by the Covenant. Among other things, the Covenant provides that persons born in the Northern Mariana Islands both before and after it took effect are citizens of the U.S.⁷ The Covenant also makes "available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States ..." and vests in the U.S. "complete responsibility for and authority with respect to matters relating to foreign affairs and defense."⁹ According to Section 701 of the Covenant,

The Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government.¹⁰

Local exchange services in the Commonwealth are provided by

⁵ See 51 Fed. Reg. 40399 (Nov. 7, 1995). While portions of the Covenant took effect either upon approval of the Covenant or on subsequent dates, the remainder of the Covenant did not finally take effect until termination of the Trusteeship Agreement. See Covenant, §1002.

⁶ Covenant at §101.

⁷ Id. at §301.

⁸ Id. at §703(a).

⁹ Id. at §104.

¹⁰ Id. at §701.

the Micronesian Telecommunications Corporation ("MTC") which is also the predominant provider of off-island interexchange domestic and international services. MTC is a 96% owned subsidiary corporation of the GTE Hawaiian Telephone Company, which, in turn, is owned by the GTE Corporation.¹¹ MTC's telecommunications operations are subject to regulation by the Federal Communications Commission ("FCC").¹²

MTC's oldest competitor in the Commonwealth for the provision of off-island long distance services is IT&E Overseas, Inc. ("IT&E"), whose operations are primarily based in Guam. IT&E began operating in Saipan in 1986. At least three other interexchange carriers offer off-island services in competition with MTC, including AT&T, MCI and Sprint.¹³

Off-island service connecting the Commonwealth with the mainland U.S. is currently provided over a combination of microwave and satellite facilities. At present, most off-island facilities are controlled by MTC. While major cable facilities do not

¹¹ See In the Matter of the Micronesian Telecommunications Corporation, 9 FCC Rcd 2032 at n. 1 (1994).

¹² See infra at notes 17, 24, 32 and 44. As a GTE subsidiary, MTC is also subject to the GTE Consent Decree. See Final Judgment, United States v. GTE Corporation, Civ. Action No. 83-1298, 1985-1 Trade Cas. (CCH), ¶66,355 (D.C.C. 1985) ("GTE Consent Decree"). On April 13, 1995, GTE Corporation filed a Motion with the U.S. District Court to terminate the Decree. See Motion of GTE Corporation to Terminate the Decree, Civ. No. 83-1298 (filed Apr. 13, 1995). The request is currently pending before the Court.

¹³ See The Pacific Star, July 15, 1994, citing comments of MTC's General Manager.

presently serve the Commonwealth directly,¹⁴ the Commonwealth has indirect access through its communications links with Guam to major off-island facilities connecting to the mainland U.S. Given the major communications facilities which connect with Guam, Guam serves as the Commonwealth's communications node to the domestic U.S. as well as the rest of the world.

International ratemaking principles are applied to calls between the Commonwealth and mainland U.S. and consequently rates for off-island, domestic calls are significantly higher than prevailing rates for calls between U.S. points which have been included within rate integration.¹⁵ Notwithstanding this, the Commonwealth is subject to treatment as a domestic point for yet

¹⁴ As discussed infra at 11-12, a high capacity, digital submarine cable linking the Commonwealth to Guam is currently in the early planning stages.

¹⁵ By way of example, MTC charges \$2.00 for the first minute and \$1.80 for each additional minute for direct-dialed daytime calls (Tues. - Fri.) for Message Toll Telephone Service between the Commonwealth and U.S. mainland (excluding Alaska). See MTC Tariff F.C.C. No. 1, page 16A. MTC's rates to Alaska are even higher--\$4.00 for the first minute and \$3.50 for each additional minute. Id. By contrast, U.S. Sprint charges \$0.28 for the first minute and \$0.28 for each additional minute for direct-dialed daytime calls for MTS service to locations within the contiguous U.S. up to 3,000 miles apart. See U.S. Sprint F.C.C. No. 1, page 168. Thus, a 15 minute call from the Commonwealth to a contiguous domestic point could cost \$27.20 under the MTC tariff cited above, while a call within the contiguous, domestic U.S. under the above Sprint tariff would cost \$4.20. While it is difficult to compare MTC's rates with those of domestic U.S. carriers, suffice it to say that MTC's charges for calls between the Commonwealth and the mainland are several magnitudes higher than typical rates for calls between domestic, contiguous points. Indeed, this was generally the case for calls between Hawaii and Alaska and the mainland U.S. (where rates were approximately twice as high) before rate integration was implemented for these points.

different regulatory purposes.¹⁶ For example, the Commission's domestic, interstate access charge plan¹⁷ and Personal Communications Service licensing plan¹⁸ extend to the Commonwealth.

Consistent with the fact that international ratemaking principles have historically been applied to the Commonwealth is the fact that the Commonwealth is located in World Zone 6, which is outside of the North American Numbering Plan ("NANP"). The Commonwealth is presently situated in World Numbering Zone 6 along with a number of other countries in the Southern Pacific, including Australia, New Zealand, the Republic of Singapore, and Thailand, among others. The U.S. (including Hawaii, Alaska, the Commonwealth of Puerto Rico ("Puerto Rico") and the U.S. Virgin Islands) along with Canada, Bermuda and a number of Caribbean countries, are located in World Numbering Zone One, also known as the NANP.¹⁹

¹⁶ See infra notes 17, 24, 32 and 44.

¹⁷ See, e.g., In the Matter of Micronesian Telecommunications Corporation, 9 FCC Rcd 2032 (1994); GTE Telephone Operating Companies ("GTOC") Transmittal No. 783, issued April 19, 1993 ("GTE Transmittal No. 783"). MTC also announced a conversion to Feature Group D equal access effective June 17, 1993. In point of fact, "1+" dialing can only be used in the Commonwealth to place calls between Saipan, Tinian and Rota. All off-island calls from the Commonwealth to domestic points, or in-bound calls placed from other domestic points, must utilize the international dialing protocol (i.e., "011"). See, e.g., In the Matter of Guam Telephone Authority, Petition for Clarification of IT&E, filed Oct. 17, 1994.

¹⁸ See 47 C.F.R. §24.102(c)(2) and (d).

¹⁹ Calls between the states themselves, and between the U.S. and other countries in the NANP can be placed by dialing "1+" the area code and seven digit number. On the other hand, since the Commonwealth is situated outside of the NANP, calls between the Commonwealth and the U.S., as well as other NANP destinations, must be placed using the international dialing pattern, "011". This

As has been the case with the non-contiguous points of Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands, the time has now come to extend the benefits of rate integration to the Commonwealth. In short, no valid justification exists for continuing to apply substantially inflated, non-integrated rates to the Commonwealth.

II. THE COMMISSION SHOULD INSTITUTE A RULEMAKING PROCEEDING TO IMPLEMENT RATE INTEGRATION FOR THE COMMONWEALTH

As demonstrated below, the Commission should institute a rulemaking proceeding to begin the process of incorporating the Commonwealth in the domestic rate integration plan.²⁰ As a U.S. domestic point subject to the Communications Act of 1934, as amended ("Act"), rate integration is legally feasible for the

necessitates the dialing of additional digits. On March 31, 1995, the Commonwealth filed a letter with the NANP Administrator requesting that it be incorporated within the NANP and issued an area code for the purpose of, among other things, establishing uniform dialing between the mainland U.S. and the Commonwealth. This pending request is entirely consistent with the action requested by the instant Petition.

²⁰ The Commonwealth is aware that both JAMA Corporation and the Governor's Office of the Territory of Guam ("Guam Governor's Office") have filed similar petitions requesting that the Commission institute rate integration proceedings for Guam. See Petition for Rulemaking to Implement Domestic Rate Integration Policies for Guam, JAMA Corporation, filed May 1, 1995; Petition for Rulemaking, Guam Governor's Office, filed May 9, 1995. Although neither petitioner suggests that the Commission also include the Commonwealth in any would-be rate integration proceedings, many of the arguments raised in those filings also indirectly support the inclusion of the Commonwealth in rate integration proceedings. For the sake of administrative efficiency as well as to conserve Commission resources, the Commonwealth urges the Commission to establish a consolidated proceeding to address Commonwealth/Guam rate integration issues.

Commonwealth. Rate integration for the Commonwealth is also economically justified, and is overwhelmingly in the public interest. Moreover, continuing the existing policy of non-integrated rates appears to be unlawfully discriminatory under the Act.

**A. Rate Integration is Legally Feasible Since the
Commonwealth is a Domestic Point under the Act**

The Commission has the legal authority to extend rate integration to the Commonwealth since it is part of the "United States" as defined under the Act. The Act defines "United States" to include "the several States and Territories, the District of Columbia, and the possessions of the United States", which includes the Commonwealth.²¹ By contrast, communications between the Commonwealth and other U.S. points are obviously not "foreign communications." "Foreign communications", by definition, include "communication or transmission from or to any place in the United States to or from a foreign country"²²

This interpretation is consistent with a 1982 Presidential proclamation which declared the Act applicable to the Commonwealth.²³ In addition, the Commission itself has repeatedly

²¹ 47 U.S.C. §153(g).

²² 47 U.S.C. §153(f). The Commission concluded in 1992 that Guam is subject to the Act. See In the Matter of IT&T Overseas, Inc., 7 FCC Rcd 4023 (1992).

²³ See Proclamation No. 4938, Application of Certain United States Laws to the Northern Mariana Islands (1982) ("The Communications Act of 1934, as amended [47 U.S.C. §§151 et seq.] is applicable to the Northern Mariana Islands").

applied the Act to the Commonwealth as a domestic point.²⁴

In short, there is no question that rate integration for the Commonwealth is legally feasible since the Commonwealth is subject to the Commission's jurisdiction as a domestic point under the Act.

**B. Rate Integration is Economically
Justified for the Commonwealth**

Since a combination of satellite and microwave facilities connect the Commonwealth with Guam as well as the domestic U.S., rate integration is economically warranted for the Commonwealth.

The rationale underlying rate integration²⁵ was that distance insensitive communications technologies will result in cost savings in providing service to remote off-shore points. The Commission's goal was to "give maximum effect to the elimination of overall

²⁴ See, e.g., In the Matter of Micronesian Telecommunications Corporation, 9 FCC Rcd 2032 (1994) (authorizing MTC to establish a "study area" in the Commonwealth); In the Matter of Waiver, 70 F.C.C. 2d 2256 (1979) (applying the Act to the Commonwealth for purposes of radio station authorizations); and In the Matter of Amendments, 70 F.C.C. 2d 1995 (1979). The Commission has also made clear that it considers facilities between the Commonwealth and domestic mainland/U.S. off-shore points to be domestic, not requiring an international authorization. In the Matter of Micronesian Telecommunications Corporation, 2 FCC Rcd 1105 (1987), citing 95 F.C.C. 2d 554 (1983). According to the Commission, "we deem no additional authority is necessary [for MTC] to serve Guam, Hawaii and the United States mainland." 2 FCC Rcd 1105 at note 1.

²⁵ Rate integration is the Commission policy adopted to promote interstate service between the contiguous states and Alaska, Hawaii, Puerto Rico and the Virgin Islands at rates that are equivalent to those prevailing for comparable distances in the contiguous states. See In the Matter of Integration of Rates and Services, 2 FCC Rcd 2442, 2447, note 1 (citing Establishment of Domestic Communications Satellite Facilities, 35 FCC 2d 844, 856-57, aff'd on recon., 38 F.C.C. 2d 665 (1972), aff'd sub nom. Network Project v. FCC, 511 F. 2d 786 (D.C. Cir. 1975) ["DOMSAT II"])).

distance as a major cost factor...."²⁶ According to the Commission, "[w]ith the availability of domestic satellites for communications between the mainland and Alaska, Hawaii and Puerto Rico, distance should dramatically diminish as an excuse or justification for the historic high-rate treatment that has been accorded...."²⁷

Although satellite technology was the original "catalyst" for the implementation of rate integration, rate integration does not depend upon the exclusive or even predominant use of satellite technology. In the Commission's own words, "implementation of rate integration does not, and cannot, depend on actual use of domestic satellite facilities."²⁸ Alternative transmission media including cable and microwave facilities, or a combination of facilities, may serve as the economic basis for rate integration.

The existing satellite facilities which connect the Commonwealth with the mainland U.S.; microwave facilities which link the Commonwealth to Guam; as well as the proposed submarine cable which would connect the Commonwealth with Guam, economically justify the implementation of rate integration for the Commonwealth. If anything, such a diversity of facilities should serve as an even greater catalyst than the existence of domestic satellite facilities alone.

²⁶ DOMSAT II at 857.

²⁷ Id. at 857.

²⁸ Integration of Rates and Services, 62 FCC 2d 693, 695 (1976).

A significant portion of the Commonwealth's off-island traffic (including traffic to the U.S. mainland) is routed to Guam via analog microwave facilities where it can access major off-island cable and satellite facilities.²⁹ For example, numerous international and domestic high capacity digital submarine cables as well as satellite facilities interconnect with Guam.³⁰ In 1986, the FCC authorized Pacific Connection, Inc. (PCI) to provide digital data and voice service via circuits leased from COMSAT and transoceanic cables between the Commonwealth, Guam and the rest of the U.S., including Hawaii.³¹

In addition, MTC operates essential earth station facilities necessary to reach the Pacific region INTELSAT satellites. At present, major submarine cable facilities do not directly serve the Commonwealth; however, the Commonwealth has expressed an interest in issuing rights for the construction and operation of a high capacity, digital submarine cable between the Commonwealth and

²⁹ Guam is about 46 miles from the Commonwealth at its closest point, Rota.

³⁰ See, e.g., American Telephone and Telegraph Company, 7 FCC Rcd 7758 (1992). On October 14, 1992, the FCC granted the application of Columbia Communications Corporation to provide a full range of satellite telecommunications services between the continental U.S., Alaska and Hawaii, on the one hand, and Guam on the other hand. See Columbia Communications Corporation, 7 FCC Rcd 6616, 6617 (1992). Moreover, on June 17, 1994, Guam Telecom Ltd., L.C., filed an application with the FCC for authorization to land and operate a submarine fiber optic cable between Guam and Hawaii. See In the Matter of Guam Telecom Ltd., L.C., File No. SCL-94-003 (June 17, 1994).

³¹ In re Application of The Pacific Connection, Inc., File No. I-T-C-86-008, released Jan. 22, 1986.

Guam.³²

Since microwave and satellite facilities in the Commonwealth presently route traffic to and from domestic off-island points, rate integration for the Commonwealth is economically justified. As described above, the Commonwealth has indirect access through its communications links with Guam to major off-island facilities connecting to the mainland U.S. Indeed, Guam serves as the Commonwealth's communications node to the domestic U.S. To the extent that the Commission determines that rate integration is warranted for Guam, it is also clearly warranted for the Commonwealth since facilities in the Commonwealth interconnect with Guam's off-island facilities.

**C. Rate Integration for the Commonwealth
is in the Public Interest**

The implementation of rate integration in the Commonwealth will lead to numerous important benefits and, therefore, is in the public interest. In particular, implementing rate integration for the Commonwealth will result in lower communications prices for Commonwealth ratepayers; promote increased competition along with the development of new and innovative technologies and services; enhance the economic development of the Commonwealth in conformity

³² In anticipation of obtaining a submerged lands lease from the Commonwealth, MTC has obtained both a cable landing license (see In the Matter of Micronesian Telecommunications Corporation, 8 FCC Rcd 748 (1993)) as well as a Section 214 authorization from the Commission to land and operate the cable (see In the Matter of Micronesian Telecommunications Corporation, File No. I-T-C-92-140, adopted Jan. 21, 1992). The Commonwealth has been in the process of discussing installation and operation of the underseas cable with various interested parties.

with the obligation of the U.S. under the Covenant; afford U.S. citizens in the Commonwealth access to affordable communications offerings; and largely rectify the historically inconsistent telecommunications policy treatment of the Commonwealth.

First, rate integration will result in lower communications prices for Commonwealth ratepayers. The reason for this is rate averaging which is the foundation of rate integration.³³ Under rate averaging, a carrier spreads costs from higher cost areas over its entire communications network, with the result that costs are substantially reduced to such higher cost ratepayers. Just as rate integration substantially reduced costs for ratepayers in Hawaii, Alaska, and Puerto Rico when it was implemented there,³⁴ rate integration will significantly reduce costs to ratepayers in the Commonwealth.

Second, the Commission has determined that rate integration serves to promote increased competition between interexchange carriers, leading to the adoption of new technologies, the development of new and innovative services, and improved customer service.³⁵ Were the Commission to implement rate integration, all of these benefits would be brought to the telecommunications market in the Commonwealth.

Third, rate integration will enhance economic growth in the

³³ See Referral of Questions from GCI v. Alascom, Inc., 2 FCC Rcd 6479, 6480 (1987).

³⁴ See Integration of Rates and Services, CC Dkt. No. 83-1376, 50 Fed. Reg. 41714, 41716 (Oct. 15, 1985).

³⁵ Id.

Commonwealth, consistent with the obligation of the U.S. under the Covenant to assist the Commonwealth in achieving a higher standard of living for U.S. citizens residing there and to develop the economic resources needed to meet the financial responsibilities of self-government.³⁶ In implementing rate integration for Alaska, the Commission concluded,

[e]conomic growth will be enhanced because the new market structure will stimulate, through lower prices, and facilitate, through new services, transactions between consumers and businesses in the state of Alaska and the rest of the nation. Increased competition should also encourage additional investment in the Alaska telecommunications infrastructure.³⁷

These same benefits would also result in the Commonwealth were rate integration adopted.

Fourth, rate integration, were it to be implemented, would ensure that U.S. citizens in the Commonwealth have access to the Nation's communications infrastructure. Universal service has long been one of the Commission's major policy objectives.³⁸ Since rate

³⁶ See supra at 3.

³⁷ In the Matter of Integration of Rates, 9 FCC Rcd 3023 at para. 2 (1994).

³⁸ Moreover, the Act requires the Commission "to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide and worldwide wire and radio communication service." 47 U.S.C. §151 (emphasis added). The present Administration, in attempting to develop a modern definition of universal service, has restated the importance of this goal: "[a]s a matter of fundamental fairness, this nation cannot accept a division of our people among telecommunications or information 'haves' and 'have-nots.'" The Administration is committed to developing a broad, modern concept of Universal Service--one that would emphasize giving all Americans who desire it easy, affordable access to advanced communications and information services, regardless of income, disability, or location." 58 Fed. Reg. 49025, 49028 (Sept. 21, 1993)(emphasis

averaging protects ratepayers in geographically distant locations from unduly high costs,³⁹ rate integration also serves to promote universal service, ensuring that ratepayers have access to affordable communications offerings.

Finally, rate integration will recognize the Commonwealth as a domestic point--which, of course, it is.⁴⁰ Implementing rate integration for the Commonwealth would constitute an important step towards eliminating the contradictory and inappropriate regulatory policies which currently govern communications between the Commonwealth and mainland.⁴¹

**D. Non-integrated Rates to the Commonwealth
Appear to be Unlawfully Discriminatory**

Non-integrated rates between the Commonwealth and the U.S. appear to be unlawfully discriminatory under Section 202(a) of the

added).

³⁹ The Commission has recognized that non-integrated rates have "inhibited the free flow of communications between the contiguous states and these [remote] points to the disadvantage of all of our citizens." DOMSAT II, 35 F.C.C 2d at 856 (1972).

⁴⁰ See supra at 8-9.

⁴¹ In the Compact of Free Association Act of 1985, Congress issued the following finding: "1) the United States does not have a clearly defined policy for United States noncontiguous Pacific areas (including the Commonwealth of the Northern Mariana Islands, American Samoa, Guam the State of Hawaii, and the State of Alaska) and for the United States-associated noncontiguous Pacific areas (including the Federated States of Micronesia, the Marshall Islands and Palau); 2) the Federal Government has often failed to consider the implications for, effects on, and potential of noncontiguous Pacific areas in the formulation and conduct of foreign and domestic policy." 48 U.S.C. §1681, Compact of Free Association Act of 1985, §301(1) and (2). The Commission's policies with respect to the Pacific territories are a good example of this.

Communications Act.⁴² This concern arises because carriers serving the Commonwealth apply relatively higher, non-integrated rates to traffic between the Commonwealth and the mainland,⁴³ and substantially lower integrated rates to traffic between other domestic points.

Perhaps the most serious problem under Section 202(a) lies with ratemaking methodology. While international ratemaking principles are applied to communications between the Commonwealth and the U.S., a fundamentally different domestic rate structure is applied to traffic originating and terminating with virtually all other domestic U.S. points. In fact, the Commission itself has stated, "...a rate structure that uses different ratemaking methods to determine the rates that different users pay for comparable services is inconsistent with the national policy prohibiting unjust or unreasonable rate discrimination...."⁴⁴ In retrospect,

⁴² Section 202(a) of the Act provides, in pertinent part, as follows: "[i]t shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communications service...." 47 U.S.C. §202(a).

⁴³ See supra at 5.

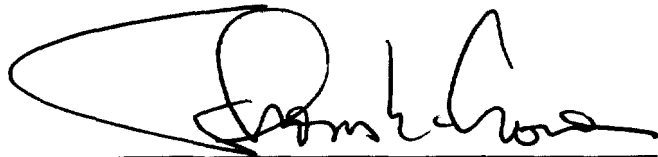
⁴⁴Integration of Rates and Services, 50 Fed. Reg. 41714, 41716 (Oct. 15, 1985). In the case of the Commonwealth, this apparently discriminatory treatment yields particularly harsh results. Commonwealth ratepayers pay a Commission-mandated subscriber line charge ("SLC") since the Commonwealth is considered to be domestic for access charge purposes. Specifically, on January 1, 1995, a multi-line business SLC of \$6.00 per line and a single-line business/residential SLC of \$3.50 took effect. See Transmittal No. 783. On top of this, Commonwealth ratepayers also pay international rates which are substantially higher than domestic interstate rates. See supra note 15. In short, Commonwealth ratepayers, although asked to bear the burdens of domestic

there seems to be little justification for the establishment of rate integration between certain off-shore points (i.e., Hawaii, Puerto Rico and the U.S. Virgin Islands) and not other U.S. off-shore points such as the Commonwealth. In other words, such disparate ratemaking practices are probably unlawful⁴⁵ and further justify the need for integrated rates between the Commonwealth and the domestic U.S.

III. CONCLUSION

As demonstrated above, the Commission should promptly institute a rulemaking proceeding to incorporate the Commonwealth into the domestic rate integration plan.

Respectfully submitted,



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treatment, do not receive the benefits of domestic treatment that other ratepayers do in rate-integrated domestic areas.

⁴⁵ See Opposition of Guam Telephone Authority, In the Matter of GUAM TELECOM, LTD., L.C., File No. SCL-94-003, filed July 22, 1994.

CERTIFICATE OF SERVICE

I, Thomas K. Crowe, hereby certify that a copy of the foregoing Petition for Rulemaking was sent by first class United States mail, postage pre-paid, or by hand delivery where indicated by an asterisk (*), this 7th day of June, 1995, to the following:

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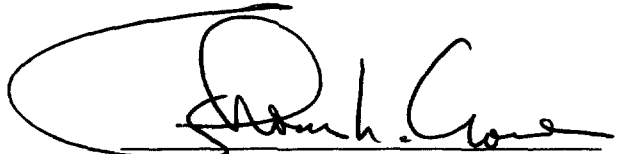
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